



County of Los Angeles
CHIEF EXECUTIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

January 31, 2008

To: Supervisor Yvonne Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Office

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

**ERRATA SHEET WITH THE NEGATIVE DECLARATION FOR THE MARINA
DEL REY AFFORDABLE HOUSING POLICY DATED JANUARY 2008**

The attached Errata Sheet with the Negative Declaration for the Marina del Rey Affordable Housing Policy dated January 2008 has been prepared in response to e-mail comments submitted by Mr. Daniel Gottlieb on September 5, 2007, and January 24, 2008, which were unintentionally omitted from the original Negative Declaration package. We have contacted Mr. Gottlieb via telephone to thank him for bringing this oversight to our attention, and we have also transmitted the document to him via e-mail, as previously arranged.

The Errata Sheet along with the original Negative Declaration package is provided for your consideration during your decision making process related to the Marina del Rey Affordable Housing Policy, which is scheduled to be heard at your Board's next public meeting on February 6, 2008.

Should you have any additional questions, I can be reached at (213) 974-1101 or your staff may contact John Edmisten at (213) 974-7365.

WTF:DL:JSE
SHK:mc

Attachment

ERRATA SHEET

Please include this Errata Sheet with the Negative Declaration for the County of Los Angeles Marina Del Rey Affordable Housing Policy (proposed policy) dated January 2008.

In addition to the comments that were noted in Memorandum for the Record (MFR) No. 3 dated November 21, 2007 (Appendix B to the Negative Declaration), which documents the responses to comments on the proposed Negative Declaration, the County of Los Angeles (County) received additional comments via e-mail from Mr. Daniel Gottlieb on September 5, 2007. Although the County transmitted the e-mail to Sapphos Environmental, Inc. in a timely manner for consideration in preparation of the responses to comments, unintentionally, the e-mail was not included in the preparation of MFR No. 3, which was appended to the Negative Declaration and distributed to all parties that commented on the proposed Negative Declaration. Mr. Gottlieb contacted the County to inform them of this oversight and provided additional comments in an e-mail dated January 24, 2008. Sapphos Environmental, Inc. contacted Mr. Gottlieb on January 29, 2008 to thank him for bringing the oversight to the attention of the County and informed him that responses would be prepared for both the original September 7, 2007 e-mail and the subsequent January 29, 2008 e-mail. Following are clarifications and revisions to the Negative Declaration resulting from these comments.

SECTION 1.0 PROJECT DESCRIPTION

1.8 Existing Conditions

Page 1-6 The first sentence of the first paragraph under this heading should be replaced as follows:

The southern boundary of Marina del Rey is bounded by Ballona Creek, which is generally aligned from the southwest at its connection to the Pacific Ocean to the northeast (Figure 1.8-1, *Ballona Creek Watershed*).

**APPENDIX B MEMORANDUM FOR THE RECORD NO. 3, DATED NOVEMBER 21, 2007
(SUBJECT: PUBLIC COMMENTS AND SEPTEMBER 19, 2007 COMMUNITY
MEETING ON THE PROPOSED NEGATIVE DECLARATION)**

Page 1 Under the heading Executive Summary, the last sentence of this paragraph should be replaced as follows:

The County of Los Angeles received six letters of comments and a variety of comments from members of the public who attended the meeting (Enclosure 4, *Public Review Comments on Proposed Negative Declaration and Responses*).

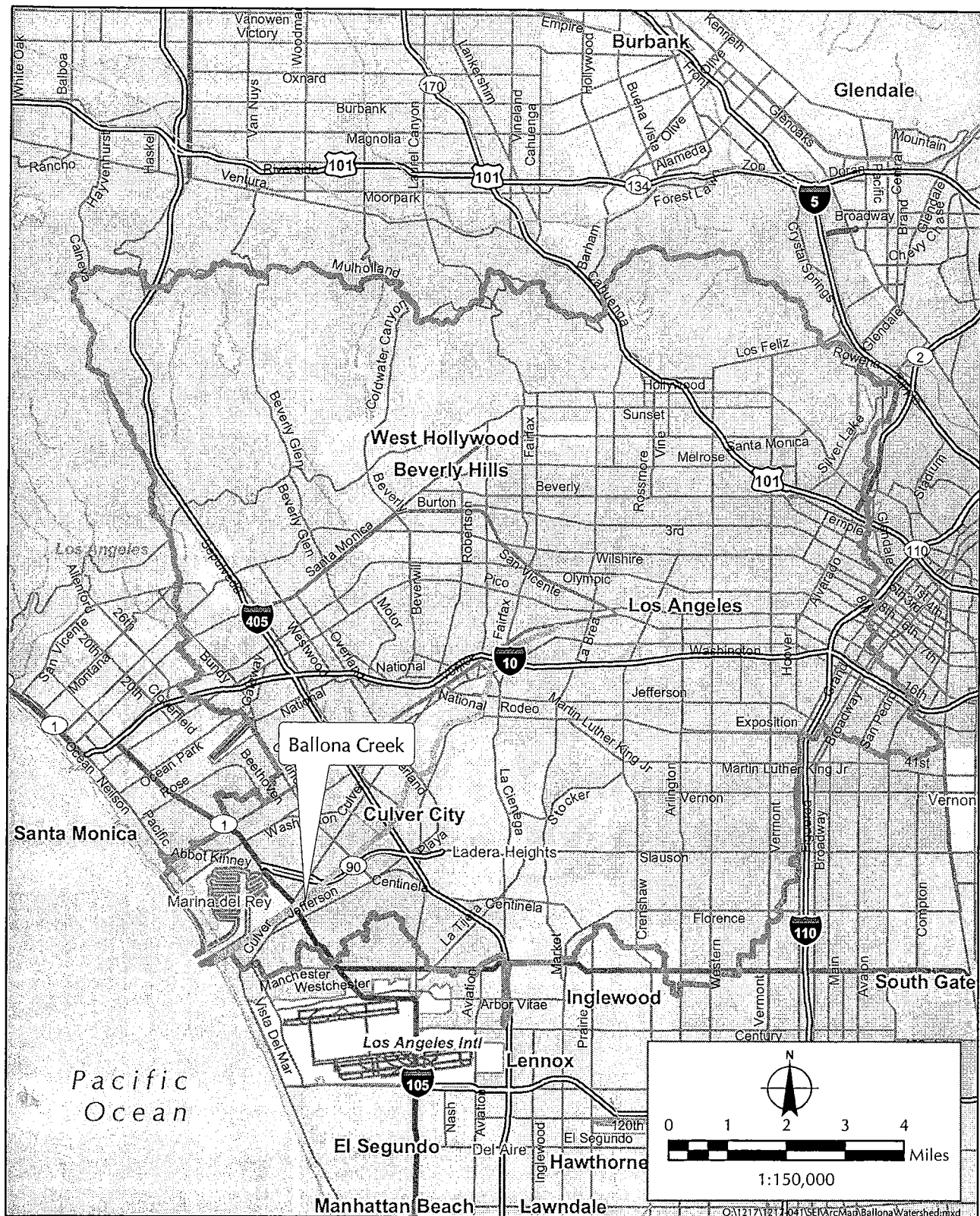
Enclosure 4 Public Review Comments on Proposed Negative Declaration and Responses

Page 1 The second sentence of the second paragraph of this page should be replaced as follows:

A total of six letters of comment were received on the proposed ND.

Following page 11

The following demarcated letters of comment and corresponding responses to these comments should be included:



Watershed Area



Ballona Creek

FIGURE 1.8-1
Ballona Creek Watershed

From: Daniel Henry Gottlieb [mailto:daniel.gottlieb@gmail.com]
Sent: Wednesday, September 05, 2007 9:50 PM
To: Santos H. Kreimann
Cc: Nancyvmarino@aol.com; Dan Gottlieb
Subject: comments on affordable housing policy

Dear Mr. Reimann,
This is my comment on the affordable housing policy for Marina del Rey.

I was interested in the density bonus as an incentive to promote affordable housing. I read the document entitled "County of Los Angeles Marina del Rey Affordable Housing Policy Proposed Negative Declaration". I searched for the word density in the document and found 9 hits. On page 1-5 in the Existing policy subsection, I found a statement which read that the use of density bonuses in Mdr was of limited application.

On page 3.9-2, I found a reference to the ordinance which spells out the legal meaning of the density bonus. I read the reference, and it does not stand alone, being an amendment of an earlier ordinance. But it seems to me that "density bonus" is being replaced by "qualifying project". I do not know what that means.

On page 3.12-4, It appears that the density bonus will still be used in the new policy. but I read in the above cited reference that the density bonus can be as much as 50% of the total new housing. Now I read on page 3.9-3 that the number of newly constructed units will nearly double the amount of existing units.

Since there is a CAP on the number of units in the Marina, I tried to calculate the total number of units by using Table 3.12-1. By comparing the table with information on the county's redevelopment map, I found that some items in the Table understated the increase of units in the development. Also, there are several projects stated on the map which do not appear on the Table.

So given the inaccuracy of either the map or the Table, and the 50% bonus, the CAP may be exceeded, and the Mandatory Findings of Significance sensitive to increased density should have been checked Potentially significant Impact. Therefore, there is a reason for a more careful examination of this proposal. At a minimum, Table 3.12-4 should be done correctly and it should be possible to calculate the total number of units being constructed.

Another error is introduced in print by the attempt to make the maps confusing to read. Figure 1.4-2 has the Map North = (90 - 33)degree West of True North. This is introduced into words on page 1-5: "Ballona creek runs roughly North-South" when in-fact it is running very roughly East-West.

The errors in this Notice of Negative declaration must have led you to check off the no significant impact box for traffic impacts, when in fact Transportation/Traffic and Noise and Land Planning seem to be possibly impacted by the increased density.

Sincerely,
Daniel H. Gottlieb

Daniel Henry Gottlieb
Via e-mail, September 5, 2007
daniel.gottlieb@gmail.com

Response to Comment 1:

The County of Los Angeles Board of Supervisors will take your comments related to bonus density into consideration during their decision-making process related to the proposed County of Los Angeles Marina del Rey Affordable Housing Policy (proposed policy). The application of a density bonus to a project is a requirement of State law (Government Code section 65915) and its application is the same under the existing policy as it would be under the proposed policy, and is entirely independent of the County's affordable housing policy and Mello Act compliance. The use of a density bonus is only relevant to the County's proposed affordable housing policy to the extent that it may enhance the financial feasibility of compliance with the policy and the Mello Act.

As indicated in the comment, the reference to the use of density bonuses on Page 1-5 of the Negative Declaration, restated on Page 1-7 of the Negative Declaration, describes language that occurs in the August 2002 Marina del Rey Affordable Housing Policy, which is the existing condition for the purpose of the environmental analysis prepared pursuant to the California Environmental Quality Act. Specifically, the 2002 Marina del Rey Affordable Housing Policy states:

The law requires local government to provide a developer with incentives for the production of lower income housing units within a development if the developer meets certain statutory requirements. These incentives are set forth in Section 65915 of the Government Code and include, principally, a "density bonus", allowing an increase in the number of units otherwise allowed as the maximum density in a given area. This increase in density has the effect of providing both the required affordable units and additional market rate units on the project site. The effect of utilization of a density bonus often is, then, to restore the developer's Return-on-Cost to at least threshold levels by providing sufficient additional market rate units to mitigate the cost of providing affordable housing.

While the potential use of a density bonus should be reviewed in each case for applicability and has been utilized in one case in the Marina, use of the density bonus may have limited further application in the Marina due to a variety of environmental, traffic, construction cost and other issues affecting individual planned projects. For instance, due to the other relatively strict Marina building requirements (e.g., height limitations to prevent boating "wind shadow" problems, required view corridors, strict traffic mitigation requirements), it is expected that increasing building density will often not be possible. In addition, increased density most often requires that structures be taller. Increasing the height of Marina structures to accommodate additional units radically affects construction costs by mandating a wholly different type of construction (steel framing, etc.) in order to meet fire and safety codes, from which no structures may be exempted. Marina construction is further complicated by the restrictions on the extent of below ground level structures for parking, etc., due to the Marina water table and the proximity of most Marina sites to the seawall. The result of attempts to build more densely on most Marina parcels, therefore, is that any effective gain in revenue from

additional market rate units is likely more than offset by construction cost increases that often may require an additional 50 to 60% over lower-rise construction.

The proposed policy does not contain similar language.

Response to Comment 2:

The term "qualifying project" is defined pursuant to the County's Density Bonus Ordinance, which the County is required to adopt pursuant to California Government Code section 65915 ("All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section shall be implemented"). A "qualifying project" is defined as "a housing development that meets the requirements entitling the project to a density bonus, as described in section 65915 of the California Government Code, and Part 17 of Chapter 22.52 and Part 18 of Chapter 22.56." The term "qualifying project" does not replace "density bonus" but rather includes it.

Response to Comment 3:

As a matter of State law, any project that qualifies for a density bonus is entitled to receive one. The proposed policy does not modify State law requirements for a density bonus, it only acknowledges that a density bonus may be utilized in meeting the requirements of the Mello Act and the policy. Density bonuses are available to developers regardless of whether or not the County adopts an affordable housing policy. California Government Code section 65915(d)(3) provides that: "Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that had a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact." California Government Code section 65915(m) further provides that: "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act..." There are currently no proposed, unapproved projects that are seeking application of a density bonus. Any future projects that apply for a density bonus would need to demonstrate compliance with the Local Coastal Program and the County of Los Angeles General Plan. The consideration of approval of any proposed development project within the Marina del Rey Specific Plan area constitutes a discretionary decision by the County of Los Angeles, and would be subject to environmental analysis pursuant to the California Environmental Quality Act.

As required pursuant to California Government Code section 65915, the County is required and has adopted a Density Bonus Ordinance. Pursuant to the Density Bonus Ordinance (County Code section 22.52.1840.B), a density bonus can be as much as 50 percent of the total new housing in the limited circumstance where 100 percent of the units are set aside for very low- or lower-income households. These provisions are an existing condition pursuant to State law that apply equally to the existing 2002 Marina del Rey Affordable Housing Policy and the proposed policy and are not a consequence of the proposed policy. Therefore, there is no nexus between the proposed policy and incremental units that could be allowed in the Marina del Rey Specific Plan area pursuant to the Density Bonus Ordinance.

As demonstrated in Table 3.12-1, *Marina del Rey Unit Counts and Vacancies*, of the Negative Declaration, there are no proposed or approved projects in Marina del Rey that meet the criteria for a 50-percent density bonus. Table 3.12-1 reflects vacancy rates for residential apartment units in

Marina del Rey at the time of preparation of the proposed County of Los Angeles Marina del Rey Affordable Housing Policy. The proposed policy is limited to proposed residential developments and redevelopment of existing residential land uses. The proposed, approved, or no change column reflects additional units obtained through application of the density bonus, irrespective of the existing or proposed policy; therefore, no change is needed. There are currently no proposed, unapproved projects that are seeking application of a density bonus.

Response to Comment 4:

Thank you for your comment regarding the alignment of the image in Figure 1.4-2, *Marina del Rey Addresses and Street Numbers*, and related text on page 1-5 of the Negative Declaration. Although the north arrow is correctly depicted in the figure, the image is not aligned with north at the top of the page. A clarification and revision to the Negative Declaration has been made that correctly indicates that Ballona Creek is generally aligned from the southwest at its connection to the Pacific Ocean to the northeast, and a supplement map has been provided (Figure 1.8-1, *Ballona Creek Watershed*). The figure clearly illustrates that Marina del Rey is generally aligned in a north-south orientation.

Response to Comment 5:

Thank you for your comments related to the potential for increased density to result in significant impacts to land use and planning, noise, and traffic and transportation. As indicated in the previous response to comments, the potential for density increase is an outfall of compliance with State law over which the County has no discretion. These provisions are an existing condition pursuant to State law that apply equally to the existing 2002 Marina del Rey Affordable Housing Policy and the proposed policy and are not a consequence of the proposed policy. Therefore, the County believes it has correctly determined that the proposed policy would not result in significant impacts to the environment, including land use and planning, noise, and traffic and transportation.

From: Daniel Henry Gottlieb [<mailto:daniel.gottlieb@gmail.com>]
Sent: Friday, January 25, 2008 7:50 AM
To: Yaroslavsky, Zev
Subject: Item 10 on BOS meeting January 29, 2008

Supervisor Zev Yaroslavsky
LA County BOS
January 24, 2008

Dear Zev,

Item number 10 is the approval of the Negative Declaration for the Marina del Rey Affordable Housing Policy.

1. I submitted an email to Santos Kreimann pointing out specific errors in the notice of Declaration. That email was not included in the list of letters to the task force . There were no comments directed to it. And none of the errors indicated were changed in the current document. I attach the email from Mr. Kreimann to me acknowledging the receipt of my email, which contains my original email attached. 1

2. The central errors concern the table 3.12.1 entitled MdR Unit Counts and Vacancies. This table mentions only 20 existing and proposed and approved projects. In fact there are several more, including the Marriott Hotel on Parcel 144 and the Marina del Rey Hotel on Parcel 42 and the Woodfin Hotel, proposed on Parcel 9U, and the Jamaica Bay Inn project (which had a Negative Declaration approved using an address instead of a CEQA required commonly used name in the public notice of the intent to apply for a ND). 2

3. Why is this important? Because the Land Use Plan has a CAP on development, and a correct table such as 3.12.1 is necessary to determine whether this cap is being exceeded. The Cap is found in the LUP at the LCP at page 11-19 to 11-20. Paragraph (e) requires a phasing schedule for all development in the Marina and a traffic improvements schedule. Such paragraph states in relevant part: 3

"However, if the trips generated by the development along with other previously approved development will exceed 50 percent of the total anticipated additional external trips to be generated by new or intensified Marina del Rey development, additional development that generates external trips shall not occur until a traffic improvement on the approach roads that will mitigate those trips has been approved and funded by the appropriate agency." 4

4. This is a Fair Argument against the ND. The letter from Deanna Katimura located on Adobe reader page 170 -174 explains the concept of Fair Argument.

5. Hence I RECOMMEND that the Board require an EIR in which, at a MINIMUM, includes a complete Table of projects and existing units correctly displayed and to each an appropriate trip generation factor assigned with explanation as to where the number was obtained. The CAP should be clearly given with an explanation of its calculation and of any 5

assumptions used. This CAP should be compared with the predicted number of trips, and the appropriate conclusion drawn. This calculation should be done so carefully, that even a mathematics professor can follow it.

5
cont.

Prof. Daniel H. Gottlieb

ps. One error mentioned in my original email was that Ballona Creek does NOT run roughly North-South. That at least should have been changed in the final document.

Daniel Henry Gottlieb
Via e-mail, January 24, 2008
daniel.gottlieb@gmail.com

Response to Comment 1:

The County appreciates your notifying us that your comments originally provided on September 7, 2007 via e-mail had not been included in the Negative Declaration. The matter originally scheduled for consideration by the County of Los Angeles Board of Supervisors on January 28, 2008 was postponed to ensure that your comments were reviewed and responses prepared for consideration by the County of Los Angeles Board of Supervisors in conjunction with their decision-making process for the County of Los Angeles Marina del Rey Affordable Housing Policy.

Response to Comment 2:

The proposed policy is limited to proposed residential developments and redevelopment of existing residential land uses. As demonstrated in Table 3.12-1, *Marina del Rey Unit Counts and Vacancies*, of the Negative Declaration, there are no proposed or approved projects in Marina del Rey that meet the criteria for a 50-percent density bonus. Table 3.12-1 reflects vacancy rates for residential apartment units in Marina del Rey at the time of preparation of the proposed County of Los Angeles Marina del Rey Affordable Housing Policy. The proposed, approved, or no change column reflects additional units obtained through application of the density bonus, irrespective of the existing or proposed policy; therefore, no change is needed. There are currently no proposed, unapproved projects that are seeking application of a density bonus.

Response to Comment 3:

Any future projects that apply for a density bonus would need to demonstrate compliance with the Local Coastal Program and the County of Los Angeles General Plan. The consideration of approval of any proposed development project within the Marina del Rey Specific Plan area constitutes a discretionary decision by the County of Los Angeles, and would be subject to environmental analysis pursuant to the California Environmental Quality Act.

As a matter of State law, any project that qualifies for a density bonus is entitled to receive one. The proposed policy does not modify State law requirements for a density bonus, it only acknowledges that a density bonus may be utilized in meeting the requirements of the Mello Act and the policy. Density bonuses are available to developers regardless of whether or not the County adopts an affordable housing policy. California Government Code section 65915(d)(3) provides that: "Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that had a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact." California Government Code section 65915(m) further provides that: "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act..." There are currently no proposed, unapproved projects that are seeking application of a density bonus.

As required pursuant to Government Code section 65915, the County is required and has adopted a Density Bonus Ordinance. Pursuant to the Density Bonus Ordinance (County Code section 22.52.1840.B), a density bonus can be as much as 50 percent of the total new housing in the limited circumstance where 100 percent of the units are set aside for very low- or lower-income households. These provisions are an existing condition pursuant to State law that apply equally to the existing 2002 Marina del Rey Affordable Housing Policy and the proposed policy and are not a consequence of the proposed policy. Therefore, there is no nexus between the proposed policy and incremental units that could be allowed in the Marina del Rey Specific Plan area pursuant to the Density Bonus Ordinance.

The County of Los Angeles Board of Supervisors will take your comments related to bonus density into consideration during their decision-making process related to the proposed County of Los Angeles Marina del Rey Affordable Housing Policy. The application of a density bonus to a project is a requirement of State law (California Government Code section 65915) and its application is the same under the existing policy as it would be under the proposed policy, and is entirely independent of the County's affordable housing policy and Mello Act compliance. The use of a density bonus is only relevant to the County's proposed affordable housing policy to the extent that it may enhance the financial feasibility of compliance with the policy and the Mello Act.

Response to Comment 4:

The Negative Declaration determined that the proposed policy would not be expected to result in significant environmental impacts. Although the County received many comments regarding the scope and enforcement of the proposed policy, the County received no substantial evidence indicating that a "fair argument" exists that the policy refinements embodied in the proposed policy would result in direct, indirect, or cumulative impacts to the environment.

As demonstrated in the environmental analysis provided in the Negative Declaration, the proposed policy would not be expected to result in direct, indirect, or cumulative impacts to the physical environment or social or economic impacts that would result directly, indirectly, or cumulatively to changes in physical environment. The proposed policy would not alter, reference, or provide guidance contrary to the adopted Marina del Rey Land Use Plan, an element of the County of Los Angeles General Plan. The existing adopted Local Coastal Program provides land use designations and densities for the unincorporated community of Marina del Rey within the Coastal Zone.^a The proposed policy requires that new affordable housing units be reasonably dispersed throughout new housing complexes or refurbished older housing complexes, and be comparable in size and design to market-rate housing units being developed in the rental component of the new or converted development. As a result, housing must be constructed as part of and within the redeveloped areas and would not be constructed in a separate location away from the market-rate housing. The proposed policy is consistent with the existing community plan.

Therefore, preparation and consideration of the Negative Declaration circulated for public review and the public comments and responses resulting from that review fulfill the County of Los Angeles Board of Supervisors' responsibilities for environmental analysis and documentation pursuant to California Environmental Quality Act statutes and guidelines.

^a County of Los Angeles Department of Regional Planning. 8 February 1996. *Marina del Rey Land Use Plan*. (Certified by the California Coastal Commission.) Los Angeles, CA.

Response to Comment 5:

The County of Los Angeles Board of Supervisors will take your comments related to bonus density into consideration during their decision-making process related to the County of Los Angeles Marina del Rey Affordable Housing Policy. The application of a density bonus to a project is a requirement of State law (Government Code section 65915) and its application is the same under the existing policy as it would be under the proposed policy, and is entirely independent of the County's affordable housing policy and Mello Act compliance. The use of a density bonus is only relevant to the proposed policy to the extent that it may enhance the financial feasibility of compliance with the policy and the Mello Act.